

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 803 - SB 903**

March 19, 2021

**SUMMARY OF BILL:** Revises the penalty for cruelty to animal offenses.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$1,742,400 Incarceration\***

**Decrease Local Expenditures – \$76,900/FY21-22 and Subsequent Fiscal Years**

**Assumptions:**

- Pursuant to Tenn. Code Ann. § 39-14-202(g), cruelty to animals is a Class A misdemeanor offense and a second or subsequent conviction of cruelty to animals is a Class E felony offense.
- The proposed legislation revises the penalty for cruelty to animal offenses as follows:
  - Class A misdemeanor
    - First conviction of nine or fewer non-livestock animals;
    - First conviction of one or more livestock animals;
  - Class E felony
    - Second or subsequent conviction of nine or fewer non-livestock animals;
    - Second or subsequent conviction of one or more livestock animals;
  - Class D felony
    - More than nine but less than 25 non-livestock animals at the same time and location;
  - Class C felony
    - 25 or more non-livestock animals at the same time and location.
- Based on information provided by the Administrative Office of the Courts, there has been an average of 63.8 Class A misdemeanor convictions for cruelty to animals each year over the last five years. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there is a total of 638 convictions (63.8 / 10%) per year for misdemeanor violations of Tenn. Code Ann. § 39-14-202.
- The proposed legislation will result in 10 percent, or 63.8 (638 x 10%), of Class A misdemeanor convictions being enhanced to Class D felony admissions.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.80 percent per year for each of the past 10 years (from 2009 to 2019), yielding a projected compound population growth rate of 8.3 percent. Assuming

Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 5.3 ( $63.8 \times 8.3\%$ ) additional admissions for a total of 69 ( $63.8 + 5.3$ ).

- According to the Department of Correction (DOC), 30.79 percent of offenders will re-offend within one year of their release. A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation ( $69 \text{ offenders} \times 30.79\% = 21 \text{ offenders}$ ).
- According to the DOC, the average operating cost per offender per day for calendar year 2021 is \$80.46.
- The average time served for a Class D felony is 1.08 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 48 ( $69 - 21$ ) offenders will be admitted every year serving 394.47 days ( $1.08 \times 365.25$ ). The annualized increase in state incarceration expenditures is estimated to be \$1,523,475 ( $\$80.46 \times 394.47 \times 48$ ).
- The proposed legislation will result in 1 percent, or 6.4 ( $63.8 \times 1\%$ ), of Class A misdemeanor convictions being enhanced to Class C felony admissions.
- Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for 0.5 ( $6.4 \times 8.3\%$ ) additional admissions for a total of 7 ( $6.4 + 0.5$ ).
- A recidivism discount of 30.79 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation ( $7 \text{ offenders} \times 30.79\% = 2 \text{ offenders}$ ).
- The average time served for a Class C felony is 1.49 years.
- Pursuant to Tenn. Code Ann. § 9-4-210, 5 ( $7 - 2$ ) offenders will be admitted every year serving 544.22 days ( $1.49 \times 365.25$ ). The annualized increase in state incarceration expenditures is estimated to be \$218,940 ( $\$80.46 \times 544.22 \times 5$ ).
- The total annualized increase in state incarceration expenditures is estimated to be \$1,742,415 ( $\$1,523,475 + \$218,940$ ).
- This analysis assumes individuals convicted of a Class A misdemeanor animal cruelty offense are spending an average of 15 days in local jail.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.
- The proposed legislation will result in a recurring decrease in local incarceration expenditures estimated to be \$76,869 [ $\$73 \times (63.8 + 6.4) \text{ offenders} \times 15 \text{ days}$ ] in FY21-22 and subsequent years.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

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